

Regulation 6164.41: Children With Disabilities Enrolled By Their Parents In Private School

Status: DRAFT

Original Adopted Date: 06/02/2009 | Last Revised Date: 12/08/2016 | Last Reviewed Date: 12/08/2016

Definitions

Parentally-placed private school children with disabilities means children with disabilities who are voluntarily enrolled by their parents/guardians in a private school or facility within district boundaries, including children who are attending a private school or facility within district boundaries but who reside in another district or state. (34 CFR -300.130, 131, 300.131)

Private school or facility means a private full-time day school, including a religious school, located within district boundaries, that has filed an affidavit with the California Department of Education pursuant to Education Code -33190 and is registered in the California Private School Directory.

Consultation with Private School Representatives

The Superintendent or designee shall consult with all private school representatives and representatives of parents/guardians of parentally-placed private school children with disabilities during the design and development of equitable services for the children. In order to ensure a meaningful and timely consultation, the consultation shall include: (Education Code 56301; 20 USC -1412(a)(10)(A)(iii); 34 CFR -300.134; Education Code 56301)

1. The child find process and how parentally-placed private school children suspected of having a disability can participate equitably
2. **The manner in which** How parents/guardians, teachers, and private school officials will be informed of the child find process
3. The determination of the proportionate share of federal funds available to serve parentally-placed private school children with disabilities and how this share is calculated
4. How the consultation process **among district staff, private school officials, and representatives of parents of parentally-placed private school children with disabilities** will operate throughout the school year to ensure that identified children can meaningfully participate in equitable services
5. **The provision of equitable special education and related services including how, when, and by whom** ~~such~~ How, where, and by whom equitable services will be provided including a discussion about the types of services, alternate service delivery mechanisms, how services will be apportioned if funds are insufficient to serve all of the identified children, and how and when those decisions will be made
6. In the event that the district and private school disagree on the provision of or the types of services, how the district will provide the private school officials with a written explanation of the reasons that the district chose to not provide the services

When meaningful and timely consultation has occurred, the district shall obtain a written affirmation signed by the representatives of participating private schools. If the private school representatives do not provide the affirmation within a reasonable period of time, the district shall forward documentation of the consultation process to the California Department of Education. ((34 CFR 300.135; Education Code -56172; **20 USC 1412; 34 CFR 300.135**)

After the consultation has occurred, the district shall ensure an annual count of the number of parentally-placed children with disabilities attending private schools located within the district. This count shall be conducted between October 1 and December 1 each year and shall be used to determine the amount the district must spend on providing equitable services to the children in the subsequent fiscal year. (34 CFR -300.133)

Provision of Services

A child with a disability parentally-placed in a private school has no individual right to receive some or all of the special education and related services that he/she would **have been received** receive if enrolled in public school. Such a child may receive a different amount of services than students with disabilities in public schools. (34 CFR -300.137, -300.138)

The district shall evaluate all identified parentally-placed private school children with disabilities for purposes of

considering them for equitable services. This evaluation shall be conducted in accordance with the timelines and procedures for evaluating public school students with disabilities pursuant to 34 CFR 300.300-300.311 **and as specified in BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education**, including **obtaining parent/guardian consent and** providing the parent/guardian with a copy of the procedural safeguards notice. (34 CFR 300.131, 131, 300.504)

If In order to ensure that each child entitled to special education and related services from the district receives an offer of a free appropriate public education (FAPE), the district where the child resides **in the district and is eligible for an** shall develop an individualized education program (IEP,) for each identified child who attends a private school located in the district **shall make a free appropriate public education (FAPE) available to** and who resides in the **child**, district.

However, the district ~~is~~ shall not **required to** develop an IEP if the parent/guardian makes clear ~~the~~his/her intention to keep the child enrolled in private school. In such situations, the district shall obtain written certification confirming the parent/guardian's intention to keep ~~the~~his/her child enrolled in private school, including the fact that **the parent/guardian**he/she is not interested in the development of an IEP or the district's offer of FAPE. If the parent/guardian does not provide confirmation in writing, the district shall obtain oral confirmation of the parent/guardian's intention and confirm the conversation in writing.

If the child resides in a different district, then this district and the district of residence shall work together to ensure that the parent/guardian receives an offer of FAPE in accordance with law.

The district shall develop and implement an individual services plan (ISP) for each identified private school child with a disability **enrolled by their parents/guardians in a private school within the district's boundaries an individual services plan (ISP)** that describes the equitable services that the district will provide, as ~~determined~~agreed to by the district **after the consultation process with** and private school representatives, during the consultation process. (34 CFR 300.138)

The ISP shall be developed, reviewed, and revised consistent with **20 USC 1414**, 34 CFR 300.121-300.324. A representative of the private school shall be invited to attend each ISP team meeting. If the representative cannot attend the meeting, the district shall use other methods to ensure the representative's participation, including individual or conference calls. (34 CFR 300.137, 300.138)

The district may provide services on the private school premises, including a religious school, to the extent consistent with law. The services shall be provided by personnel meeting the same standards as personnel providing services in the public school **except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the special education teacher qualification requirements specified in 34 CFR 300.156.** The personnel shall either be district employees or contractors of the district. (34 CFR 300.138, 300.139)

The district shall offer transportation to the child if services are provided on a site other than the child's school and the ISP team determines that transportation is necessary for the child to benefit from or participate in the services provided in the ISP. Depending on the timing of the services, the district shall provide transportation from the child's school or home to the service site and from the service site to the child's school or home. (34 CFR 300.139)

The district may place equipment and supplies in a private school for the period of time necessary to provide the services pursuant to the ISP. All such equipment shall remain the property of the district and must be able to be removed without **remodeling or** causing damage to the private school. The district shall remove the equipment when no longer required by the child, when the child no longer attends the private school, or when removal is necessary to prevent unauthorized use. (34 CFR 300.144)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

Ed. Code 56000

Ed. Code 56020-56035

Ed. Code 56170-56177

Description

Special education; legislative findings and declarations

Definitions

Children enrolled in private schools

Ed. Code 56195.8	Adoption of policies
Ed. Code 56300-56385	Identification and referral, assessment
Ed. Code 56500-56509	Procedural safeguards
Ed. Code 56600-56606	Evaluation, audits and information

Federal References

20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1400-1482	Individuals with Disabilities Education Act
29 USC 794	Rehabilitation Act of 1973, Section 504
34 CFR 300.1-300.818	Assistance to states for the education of students with disabilities
34 CFR 300.130-300.140	Children with disabilities enrolled by their parents in private schools

Description

Management Resources References

Court Decision	Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997
Federal Register	Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845
U.S. Department of Education Publication	Questions and Answers on Serving Children with Disabilities Placed by Their Parents at Private Schools, March 2006
Website	California Department of Education, Special Education - https://simbli.eboardsolutions.com/SU/wbtzINw8puwslshjTsrMvMBCA==
Website	U.S. Department of Education, Office of Special Education Programs - https://simbli.eboardsolutions.com/SU/v4l2D9cNplus2KZ0yVtPslshvZhg==

Description

Cross References

0430	Comprehensive Local Plan For Special Education - https://simbli.eboardsolutions.com/SU/v4RslshNgwalreHoj7ZVXWm7w==
0430	Comprehensive Local Plan For Special Education - https://simbli.eboardsolutions.com/SU/9boBGUTIBZ4DgJEW4QQULQ==
6159	Individualized Education Program - https://simbli.eboardsolutions.com/SU/3vVDizDulqY8l7eXsslshJApA==
6159	Individualized Education Program - https://simbli.eboardsolutions.com/SU/3on5FNplusCvSTDslshj1eANpc2Q==
6159.1	Procedural Safeguards And Complaints For Special Education - https://simbli.eboardsolutions.com/SU/gLa5k4aplusb7flyNscplusZRrZw==
6159.1	Procedural Safeguards And Complaints For Special Education - https://simbli.eboardsolutions.com/SU/crldClfqd8Qt0qG0snrrGw==
6164.4	Identification And Evaluation Of Individuals For Special Education - https://simbli.eboardsolutions.com/SU/pluspg3XMsm0hsQ0UU5SIUtbA==
6164.4	Identification And Evaluation Of Individuals For Special Education - https://simbli.eboardsolutions.com/SU/ljlsShCo5lWWhnZYtYeyNhWvUg==

Description